

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION IX
 75 Hawthorne Street
 San Francisco, CA 94105

SFUND RECORDS CTR
 27813

IN THE MATTER OF:	)	Order No. 96-02
)	
American Chrome Engineering, Inc.	)	ADMINISTRATIVE ORDER
932-936 86th Avenue	)	PURSUANT TO SECTION
Oakland, CA 94621	)	106(a) OF THE
Assessor's Parcel No.	)	COMPREHENSIVE
42-4283-20 & 21	)	ENVIRONMENTAL RESPONSE
	)	COMPENSATION AND
Charles K. Peach	)	LIABILITY ACT OF 1980
Lawrence Paul Graham	)	as amended, 42 U.S.C.
Lois J. Peach, Trustee of	)	Section 9606(a)
the Peach Revocable Trust))	
Charles K. Peach, Trustee of)	
the Peach Revocable Trust))	
The Peach Revocable Trust)	
)	
RESPONDENTS)	

I. JURISDICTION AND GENERAL PROVISIONS

A. This Administrative Order ("Order") is issued on this date to Charles K. Peach; Lawrence Paul Graham; Lois J. Peach, Trustee of the Peach Revocable Trust; Charles K. Peach, Trustee of the Peach Revocable Trust; and The Peach Revocable Trust (collectively referred to as the "Respondents" and individually referred to as a "Respondent"), pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499 ("CERCLA"), delegated to the Administrator of the United States Environmental Protection Agency ("U.S. EPA") by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923,

1 further delegated to the EPA Regional Administrators by U.S. EPA
2 Delegation Nos. 14-14-A and 14-14-B, and further redelegated to
3 the Director, Hazardous Waste Management Division by Region IX
4 Delegations 1290.41 and 1290.42.

5 B. The State of California has been notified of the
6 issuance of this Order as required by Section 106(a) of CERCLA,
7 42 U.S.C. Section 9606(a).

8 C. This Order requires the Respondents to undertake and
9 complete removal activities to abate an imminent and substantial
10 endangerment to the public health and welfare or the environment
11 that may be presented by the actual or threatened release of
12 hazardous substances at the American Chrome Engineering, Inc.
13 facility, 932-936 86th Avenue, Oakland, CA, 94621, Assessor's
14 Parcel No. 42-4283-20 & 21 (the "Site").

15 II. FINDINGS OF FACT

16 Based on available information, including the Administrative
17 Record file in this matter, U.S. EPA hereby finds:

18 A. Site Location and Characteristics

19 1. The American Chrome Engineering Plating Shop is a
20 defunct electroplating facility that operated from approximately
21 1977 through early 1995 at 932-936 86th Avenue, Oakland, Alameda
22 County, California, Assessor's Parcel No. 42-4283-20 & 21. The
23 Site is situated in a mixed light industrial, commercial, and
24 residential neighborhood. Residences are located immediately
25 adjacent to and behind the Site.

26 2. The Site includes a one-story, brick-face, cinder
27 block building with a wooden roof (the "plating shop"). The
28 plating shop inside is divided into a main work area and a

1 plating area. The plating area has numerous containers of
2 various sizes. On or about August 22, 1995, the total estimated
3 volume of hazardous or potentially hazardous waste solutions is
4 2,500 gallons. There were approximately 50 vats at the Site at
5 the time of the assessment. Approximately 10 vats showed
6 corrosion and approximately 20 additional vats were in poor
7 condition. The wooden flooring planks exhibited weakened
8 integrity. The building (35' by 100') is bordered by a side yard
9 (15' by 100') to the east. This yard has approximately 20 - 30
10 containers. These containers appear to be in fair condition, but
11 are still of concern because the company is no longer in
12 business, the storage is in violation of fire codes, and the
13 building security is poor. The other side yard located to the
14 west contains various debris.

15 3. The Site is currently surrounded by a wooden and a
16 chain link fence. However, the fence is in various stages of
17 disrepair and may not adequately impede trespassers. In
18 addition, the building is easily accessible through various
19 openings in outside walls of the structure.

20 B. Respondents

21 1. Charles K. Peach, owned the property located at
22 932-936 86th Avenue, Oakland, Alameda county, California,
23 Assessor's Parcel No. 42-4283-20 & 21 as an individual from 1977
24 until 1991, and since 1991 has held it as trustee of the Peach
25 Revocable Trust.

26 2. Lois J. Peach, owned the property located at 932-
27 936 86th Avenue, Oakland, Alameda county, California, Assessor's
28 Parcel No. 42-4283-20 & 21 as an individual from 1977 until 1991,

1 and since 1991 has held it as trustee of the Peach Revocable
2 Trust.

3 3. Since 1991, the Peach Revocable Trust has held
4 title to the property located at 932-936 86th Avenue, Oakland,
5 Alameda county, California, Assessor's Parcel No. 42-4283-20 &
6 21.

7 4. Lawrence Paul Graham, is president of American
8 Chrome Engineering, Inc. located at 932-936 86th Avenue, Oakland,
9 Alameda county, California, Assessor's Parcel No. 42-4283-20 &
10 21.

11 5. Charles K. Peach, is an operator of American
12 Chrome Engineering, Inc. located at 932-936 86th Avenue, Oakland,
13 Alameda county, California, Assessor's Parcel No. 42-4283-20 &
14 21.

15 6. Charles K. Peach, as trustee of the Peach
16 Revocable Trust and operator of American Chrome Engineering,
17 Inc., Lois J. Peach, as trustee of the Peach Revocable Trust, the
18 Peach Revocable Trust, and Lawrence Paul Graham, as president of
19 American Chrome Engineering, Inc. are all referred to herein as
20 Respondents.

21 C. Incident/Release Characteristics/Prior Enforcement

22 1. At the request of the City of Oakland Fire
23 Department, Hazardous Materials Management Program and City of
24 Oakland Fire Department, Hazardous Materials Investigator, Steve
25 Craford, on or about August 22, 1995, the U.S. EPA Technical
26 Assistance Team ("TAT") conducted an assessment of the Site
27 ("Site Assessment").
28

2. The Site Assessment noted that the conditions at

1 the facility posed a potential threat to public health, welfare
2 or the environment. Of particular concern, is the potential for
3 a release involving corrosive and/or heavy metal contaminated
4 plating solutions or other plating chemicals to the environment.
5 Poor security at the Site increases the possibility of direct
6 human contact.

7 3. At the time of the Site Assessment, investigators
8 encountered approximately 2,500 gallons of hazardous or
9 potentially hazardous liquids and sludges as well as other
10 contaminated debris.

11 4. A total of six samples were collected for possible
12 enforcement use from the materials encountered on the site.
13 Three of the samples were found to have a pH of less than one, a
14 fourth was found to have a cyanide concentration of 48,000 mg/L.

15 5. On August 22, 1995, Stephen Craford advised Mr.
16 Charles Peach and Mr. L. Paul Graham of his concerns and of the
17 need to immediately comply with the applicable Fire Codes with
18 respect to hazardous chemical storage.

19 6. The City of Oakland elected to retain the lead
20 agency at Site provided Mr. Charles Peach and Mr. L. Paul Graham
21 voluntarily and promptly complied with the directions of Stephen
22 Craford. On September 8, 1995, because Mr. Charles Peach and Mr.
23 L. Paul Graham had not complied with his directions, Mr. Craford
24 requested that U.S. EPA immediately assume lead agency status at
25 the Site.

26 7. On September 12, 1995, U.S. EPA issued a CERCLA
27 Section 107(a) Notice of Liability to Mr. Charles K. Peach, as an
28 operator of American Chrome Engineering, Inc. Among other

1 things, the Notice required that Mr. Peach prepare and submit a
2 detailed Work Plan and Schedule of Activities that would result
3 in the completion of all remediation activities by November 17,
4 1995. To date, Mr. Peach has not complied with the CERCLA
5 Section 107(a) Notice of Liability. Lois J. Peach, as Trustee of
6 the Peach Revocable Trust, Charles K. Peach, as trustee of the
7 Peach Revocable Trust, and L. Paul Graham, as president of
8 American Chrome Engineering, Inc. receive CERCLA Section 107(a)
9 Notice of Liability by way of this order.

10 D. Quantities and Types of Substances Present

11 1. Based on observations made during the initial Site
12 Assessment, the U.S. EPA Region 9 TAT estimates that there are
13 approximately 2,500 gallons of hazardous or potentially hazardous
14 liquids and sludges currently stored at the Site. The materials
15 encountered are believed to be typical for a plating operation of
16 this type. Laboratory HazCat analysis of samples collected
17 during the assessment confirm the presence of cyanide at a
18 concentration of 48,000 mg/L and strong acids with a pH of less
19 than 1. High concentration of heavy metals such as chromium and
20 cadmium are also expected.

21 2. The chemical containers were not properly labeled
22 and had not been properly segregated or secured. At least one
23 container labeled "Cr" (chromium) was found to contain cyanide.
24 When a metal salt of Cyanide mixes with any acid, such as Chromic
25 Acid, it forms Hydrocyanic Gas (HCN) which is Immediately
26 Dangerous to Life or Health (IDLH) at 50 ppm.

27 3. The vats in the plating area showed evidence of
28 deterioration due to corrosion. The raised flooring in the vat

1 area had deteriorated.

2 4. A 2500 square foot paved, outside storage area to
3 the east of the building was used for miscellaneous equipment as
4 well as for the storage of 20-30 chemical containers.

5 E. Threats to Public Health and Welfare

6 1. The substances of concern are cyanide solids,
7 caustics, as yet unidentified strong acids and oxidizing acids
8 and numerous heavy metal salts. Although not fully characterized
9 at this time, it is reasonable to expect that the following
10 hazardous substances will be encountered. These materials are
11 believed to be typical for a plating operation of this type:

12 a. Nitric acid is a corrosive material which can
13 burn the skin, eyes and respiratory tract upon direct contact or
14 inhalation of vapors. It can cause acute pulmonary edema or
15 chronic pulmonary diseases from inhalation. When heated or
16 reacted with water, it produces toxic and corrosive fumes.

17 b. Hydrochloric acid is a strong corrosive which
18 can burn the skin, eyes and mucous membranes upon dermal contact.
19 It is also moderately irritating to the respiratory tract when
20 inhaled. Hydrochloric acid produces toxic and corrosive fumes
21 when exposed to water.

22 c. Chromic acid is corrosive to metals and
23 tissue. It can react with combustible materials and the heat of
24 reaction may be sufficient to result in ignition of the
25 combustible materials. A fire may produce irritating or
26 poisonous gases.

27 d. Cyanides, such as sodium cyanide and copper
28 cyanide in the liquid or solid form and hydrogen cyanide in the

1 gaseous form, are poisons. Exposure to cyanides may be fatal if
2 inhaled, swallowed or absorbed through the skin. Cyanides and
3 strong acids are incompatible materials. Should cyanides come
4 into contact with a strong acid, like nitric or hydrochloric
5 acid, a release of hydrogen cyanide would occur. Releases of
6 hydrogen cyanide gas would be life-threatening. Mixtures of
7 cyanides and strong oxidizers, such as nitric and hydrochloric
8 acids, present both fire and explosion hazards.

9 e. Chromium is a suspected OSHA human
10 carcinogen. Chronic exposure to chromate dust may cause
11 bronchogenic carcinoma. Chromium is a poison and, when ingested,
12 causes gastrointestinal effects.

13 f. Nickel dust or fume is a respiratory irritant
14 that with chronic exposure may cause nasal or lung cancer in
15 humans. The average latency period for the induction of cancer
16 appears to be 25 years. Acute exposure to nickel fumes or copper
17 dusts can cause upper respiratory tract irritation, metal fume
18 fever, nausea, vomiting and abdominal pains.

19 2. The substances listed in subparagraph 1 above, are
20 hazardous substances as defined by Section 101(14) of CERCLA, 42
21 U.S.C. § 9601(14)

22 III. CONCLUSIONS OF LAW

23 A. Based on the foregoing FINDINGS OF FACT and the
24 Administrative Record file supporting this removal action, U.S.
25 EPA has concluded that:

26 1. The American Chrome Engineering Plating Shop site,
27 located at 932-936 86th Avenue, Oakland, Alameda county,
28 California, Assessor's Parcel No. 42-4283-20 & 21, is a

1 "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C.
2 Section 9601(9).

3 2. Each named Respondent is a "person" as defined by
4 Section 101(21) of CERCLA, 42 U.S.C. Section 9601(21).

5 3. Each Respondent is either an "owner" or an
6 "operator" of the Site as defined by Section 101(20) of CERCLA,
7 42 U.S.C. Section 9601(20). Each Respondent is therefore a
8 liable person under Section 107(a) of CERCLA, 42 U.S.C. Section
9 9607.

10 4. The substances of concern described in the
11 FINDINGS OF FACT (Section II) above included "hazardous
12 substances" as defined by Section 101(14) of CERCLA, 42 U.S.C.
13 Section 9601(14).

14 5. The conditions described in the FINDINGS OF FACTS
15 (Section II) above, constitute an actual or threatened "release"
16 as that term is defined in Section 101(22) of CERCLA, 42 U.S.C.
17 Section 9601(22).

18 IV. DETERMINATIONS

19 A. Based on the above FINDINGS OF FACT and CONCLUSIONS OF
20 LAW, the Director, Hazardous Waste Management Division, U.S. EPA
21 Region IX, has made the following determinations:

22 1. The actual or threatened release of hazardous
23 substances from the Facility may present an imminent and
24 substantial endangerment to the public health, welfare, or the
25 environment.

26 2. The actions required by this Order, if properly
27 performed, are consistent with the National Contingency Plan
28 ("NCP"), 40 CFR Part 300 and CERCLA; and are appropriate to

1 protect the public health, welfare, or the environment.

2 3. Conditions present at the Site constitute a threat
3 to public health or welfare or the environment based upon
4 consideration of the factors set forth in Section 30.415(b) of
5 the NCP. These factors include, but are not limited to, the
6 following:

7 a. Actual or potential exposure to hazardous
8 substances by nearby populations, animals, or
9 food chain.

10 The presence of both acids and cyanide together at this Site
11 represents a substantial risk of fire and release of highly toxic
12 and potentially lethal fumes on-Site and into the surrounding
13 neighborhood including personal residences.

14 b. Actual or potential contamination of drinking
15 water supplies.

16 No contamination of a drinking water supply has yet been
17 identified. Subsurface investigation is conducted after the
18 completion of the surface cleanup. The possibility that the
19 floor of the facility and the internal drainage system within the
20 facility are severely contaminated and the significant
21 possibility that there has been a long-term ongoing release of
22 heavy metal contaminated waste-water to the soil beneath the
23 facility creates the possibility that any such soil contamination
24 would be a potential source of contamination for groundwater
25 which may supply drinking water wells.

26 c. Hazardous substances or pollutants or
27 contaminants in drums, barrels, tanks, or
28 other bulk storage containers, that may pose
29 a threat of release.

30 As described in Section II (FINDINGS OF FACTS) above, the
31 plating vats are in poor condition. If left in their current

1 condition, all of the these containers pose a substantial threat
2 of release.

3 d. Availability of other appropriate Federal or
4 State or Local response mechanisms to the
5 release.

6 The City of Oakland Fire Department, Hazardous Materials
7 Investigator, Steve Craford has continued to provide liaison
8 support between U.S. EPA and the various City Offices that are
9 involved. Continued liaison support from the City of Oakland is
10 anticipated. No additional federal or State response mechanisms
11 are available to respond to this Site.

12 V. ORDER

13 A. Based upon the foregoing FINDINGS OF FACTS, CONCLUSIONS
14 OF LAW, and DETERMINATIONS, and pursuant to Section 106(a) of
15 CERCLA, 42 U.S.C. Section 9606(a), it is hereby Ordered that the
16 Respondents undertake the following actions under the direction
17 of U.S. EPA's On-Scene Coordinator.

18 Effective Date

19 1. The Effective Date of this Order shall be the date
20 of signature by the Director, Hazardous Waste Management
21 Division.

22 2. Except where this Order specifically provides
23 otherwise, its obligations shall be effective three (3) calendar
24 days following the Effective Date of this Order unless a
25 conference is requested as provided below. If a conference is
26 requested, this Order shall be effective on the third (3)
27 calendar day following the day of the conference unless modified
28 in writing by U.S. EPA.

Notice of Intent to Comply

1 3. Within forty eight (48) hours after the receipt of
2 the Order, the Respondents shall provide notice, verbally or in
3 writing, to U.S. EPA stating their irrevocable intention to
4 comply with the terms of this Order. Verbal notification must be
5 followed in writing within three (3) calendar days after receipt
6 of the Order. In the event any Respondent fails to provide such
7 notice, that Respondent shall be deemed not to have complied with
8 the terms of this Order.

9 Work to Be Performed

10 4. Upon receipt of this Order, the Respondents shall
11 provide twenty-four (24) hour security at the Site which meets
12 with U.S. EPA approval.

13 5. The Respondents shall immediately restrict access
14 to the Site and shall not allow any materials, equipment, or any
15 other item to be removed from the Site without prior U.S. EPA
16 approval.

17 6. Within seven (7) calendar days after the Effective
18 Date of this Order, the Respondents shall submit to U.S. EPA for
19 approval, a Work Plan for the removal activities set forth in
20 Paragraphs 10 and 11 below. The Work Plan shall provide a
21 concise description of the activities to be conducted to comply
22 with the requirements of this Order, and shall include a proposed
23 schedule for implementing and completing the activities. The
24 Work Plan shall be reviewed by U.S. EPA, which may approve,
25 disapprove, require revisions to, or modify the Work Plan. The
26 Respondents shall implement the Work Plan as finally approved by
27 U.S. EPA. Once approved, the Work Plan shall be deemed to be
28 incorporated into and made a fully enforceable part of this

1 Order.

2 7. The Work Plan shall contain a site safety and
3 health plan, a transportation and disposal plan, and a schedule
4 of the work to be performed. The site safety and health plan
5 shall be prepared in accordance with EPA's Standard Operating
6 Safety Guide, dated November, 1984, and updated July, 1988, and
7 with the Occupational Safety and Health Administration (OSHA)
8 regulations applicable to Hazardous Waste Operations and
9 Emergency Response, 29 CFR Part 120.

10 8. The Respondents shall retain an environmental
11 contractor qualified to undertake and complete the requirements
12 of this Order, and shall notify U.S. EPA of the name of such
13 contractor within three (3) days of the receipt of this Order.
14 U.S. EPA retains the right to disapprove of any, or all, of the
15 contractors and/or subcontractors retained by the Respondents.
16 In the event U.S. EPA disapproves of a selected contractor, the
17 Respondents shall retain a different contractor to perform the
18 work, and such selection shall be made within two (2) business
19 days following U.S. EPA's disapproval.

20 9. Within three (3) calendar days after U.S. EPA
21 approval of the Work Plan, the Respondents shall commence
22 implementation of the Work Plan as approved or modified by U.S.
23 EPA. Failure of any Respondent to properly implement all aspects
24 of the Work Plan shall be deemed to be a violation of the terms
25 of this Order.

26 10. The Work Plan shall require the Respondents to
27 perform, and complete within thirty (30) calendar days after
28 approval, at a minimum, the following removal activities:

1 a. Post signs indicating the site contains
2 hazardous materials and substances.

3 b. Sample and characterize all containerized
4 materials and any other potentially hazardous materials present
5 at the Site.

6 c. Perform air monitoring and sampling in
7 accordance with OSHA requirements during all phases of the
8 removal action, whenever there is a potential for airborne
9 releases of toxic air contaminants. Operational controls such as
10 dust contaminant and/or suppression should be used to abate
11 fugitive dust emissions.

12 d. Remove non-hazardous equipment and debris to
13 provide adequate space for response operations.

14 e. Obtain the services of a state-licensed
15 hazardous waste hauler for transportation and disposal of waste
16 material.

17 f. Prepare all hazardous substances for proper
18 transportation for disposal, or where feasible, alternative
19 treatment or reuse/recycle options; and conduct all such
20 transportation, disposal, treatment, or reuse/recycling
21 activities to an EPA-approved facility. The above may include
22 bulking of compatibles, direct shipment for reuse,
23 recontainerization of materials into Department of Transportation
24 specification containers, lab packing small quantities,
25 solidifications of liquid wastes, and neutralization or other on-
26 site treatment of wastes.

27 g. Remove grossly contaminated equipment,
28 structures and debris for proper disposal. Decontaminate

1 structures to non-hazardous levels and minimize the volume of
2 hazardous wastes. This may include the partial, or even total,
3 demolition of the building in order to permit access to areas of
4 contamination.

5 h. Submit copies of hazardous wastes manifests,
6 other than those relating to transport and disposal of
7 contaminated soil, to EPA.

8 11. Furthermore, the Work Plan shall require the
9 Respondents to perform, and complete within sixty (60) calendar
10 days after approval, at a minimum, the following removal
11 activities:

12 a. Conduct surface and subsurface soil sampling
13 to determine the nature of the contamination.

14 b. Dispose of or stabilize contaminated soils
15 found on or near the surface.

16 c. Submit copies of hazardous wastes manifests,
17 related to transport and disposal of contaminated soil, to U.S.
18 EPA.

19 12. Respondents shall inform EPA at least forty-eight
20 (48) hours prior to commencement of on-Site work.

21 13. All sampling and analysis shall be consistent with
22 the "Quality Assurance/Quality Control Guidance for Removal
23 Activities": "Sampling QA/QC Plan and Data Validation
24 Procedures," EPA OSWER Directive 9360.4-01, dated April, 1990.

25 Compliance With Other Laws

26 14. Respondents shall perform all actions required
27 pursuant to this Order in accordance with all applicable federal,
28 state, and local laws and regulations except as provided in

1 Section 121(e) of CERCLA, 42 U.S.C. § 9621(e), and Section
2 300.415(i) of the NCP. In Accordance with Section 300.415(i),
3 all on-Site actions required pursuant to this Order shall, to the
4 extent practicable, as determined by EPA, considering the
5 exigencies of the situation, attain applicable or relevant and
6 appropriate requirements ("ARARs") under federal environmental,
7 state environmental or facility siting laws.

8 15. Any hazardous substance, pollutant, or
9 contaminant transferred off-Site as a result of this Order must
10 be taken to facility acceptable under the EPA Off-Site Rule, 40
11 C.F.R. § 300.440, in accordance with Section 121(d)(3) of CERCLA,
12 42 U.S.C. § 9621(d)(3).

13 Project Coordinators

14 16. With three (3) days of receipt of this Order, the
15 Respondents shall designate a Project Coordinator. To the
16 greatest extent possible, the Project Coordinator shall be
17 present on site or readily available during site work. The U.S.
18 EPA has designated William E. Lewis as its On-Scene Coordinator.
19 The On-Scene Coordinator and the Project Coordinator shall be
20 responsible for overseeing the implementation of this Order. To
21 the maximum extent possible, communication between the
22 Respondents and the U.S. EPA, and all documents, reports, and all
23 other correspondence concerning the activities relevant to this
24 Order, shall be directed through the On-Scene Coordinator and the
25 Project Coordinator.

26 17. The U.S. EPA and the Respondents shall each have
27 the right to change their respective designated On-Scene
28 Coordinator or Project Coordinator. U.S. EPA shall notify the

1 Respondents, and Respondents shall notify U.S. EPA, as early as
2 possible before such a change is made, but in no case less than
3 24 hours before such a change. Notification may initially be
4 verbal, but shall promptly be reduced to writing.

5 18. The U.S. EPA On-Scene Coordinator shall have the
6 authority vested in an On-Scene Coordinator by the NCP, 40 CFR
7 Part 300, as amended, including the authority to halt, conduct,
8 or direct any work required by this Order, or to direct any other
9 response action undertaken by U.S. EPA or the Respondents.

10 19. All instructions by the U.S. EPA On-Scene
11 Coordinator or his designated alternate shall be binding upon the
12 Respondents as long as those instructions are not clearly
13 inconsistent with the National Contingency Plan.

14 20. The provisions of this Order and the directions of
15 the On-Scene Coordinator shall be binding on the employees,
16 agents, successors, and assigns of the Respondents.

17 Extensions

18 21. No extensions to the above time frames shall be
19 granted without sufficient cause. All extensions must be
20 requested in writing, and shall not be deemed accepted unless
21 approved in writing, by U.S. EPA.

22 Reporting and Record Retention

23 22. The Respondents shall provide EPA with written
24 weekly summary reports. These reports should contain a summary
25 of the previous week's activities and up-coming activities.

26 23. The Respondents shall submit a final report
27 summarizing the actions taken to comply with this Order. The
28 report shall contain, at a minimum: identification of the

1 facility, a description of the locations and types of hazardous
2 substances encountered at the facility upon the initiation of
3 work performed under this Order, a chronology and description of
4 the actions performed, a discussion of how all problems were
5 resolved, a listing of quantities and types of materials removed
6 from the facility, a discussion of removal and disposal options
7 considered for any such materials, a listing of the ultimate
8 destination of those materials, and a presentation of the
9 analytical results of all sampling and analysis performed and
10 accompanying appendices containing all relevant paperwork
11 prepared during the action (e.g., manifests, invoices, bills,
12 contracts, permits). The final report shall also include the
13 total cleanup costs incurred for all removal activities and an
14 affidavit from a person who supervised or directed the
15 preparation of that report. The affidavit shall certify under
16 penalty of law that based on personal knowledge and appropriate
17 inquiries of all other persons involved in preparation of the
18 report, the information submitted is true, accurate, and complete
19 to the best of the affiant's knowledge and belief. The report
20 shall be submitted within thirty (30) days of completion of the
21 work required by this Order.

22 24. The Respondents shall retain copies of all records
23 and files relating to hazardous substances found on the site for
24 six (6) years following completion of the activities required by
25 this Order and shall make them available to the U.S. EPA prior to
26 the termination of the removal activities under this Order.

27 25. All notices, reports, and requests for extensions
28 submitted under the terms of this Order shall be sent by

certified mail, return receipt requested, and addressed to the following:

one copy to: William E. Lewis
On-Scene Coordinator (H-8-3)
U.S. EPA
75 Hawthorne Street
San Francisco, CA 94105
(415) 744-2329

one copy to: Mark Klaiman
Assistant Regional Counsel (RC-3-1)
U.S. EPA
75 Hawthorne Street
San Francisco, CA 94105
(415) 744-1374

VI. ACCESS

A. To the extent that the Site, or other areas where work under this Order is to be performed is owned by, or in possession of, someone other than the Respondents, the Respondents shall obtain all necessary access agreements. For the purposes of this subsection, "best efforts" shall include, but not be limited to, the payment of money in consideration of access and granting indemnification to the owner of such property for damages or losses resulting to such property caused by Respondents' Site related activities. Such agreements shall provide access for U.S. EPA, its contractors, agents and consultants for the purposes set forth in subsection VI.C. below.

B. In the event that after using their best efforts any Respondent is unable to obtain such agreements, the Respondent shall immediately notify U.S. EPA. Such notification shall include the names of all persons contacted in order to procure access, copies of all correspondence regarding access, and the amount of money offered in consideration of access and the terms of any offered indemnification. Failure to provide such

1 information shall be deemed a failure to utilize "best efforts"
2 to obtain access.

3 C. The Respondents shall provide access to the Site to
4 U.S. EPA employees, contractors, agents, and consultants at
5 reasonable times, and shall permit such persons to be present and
6 move freely in the area in order to conduct inspections,
7 including taking photographs and videotapes of the Site, to do
8 cleanup/stabilization work, to take samples, to monitor the work
9 under this Order, and to conduct other activities which the U.S.
10 EPA determines to be necessary.

11 VII. ACCESS TO ADMINISTRATIVE RECORD FILE

12 The Administrative Record file supporting the selection of
13 the response action for this site is available for review on
14 normal business days between the hours of 9:00 a.m. and 5:00 p.m.
15 in the Office of Regional Counsel, United States Environmental
16 Protection Agency, Region IX, 75 Hawthorne Street, 16th Floor,
17 San Francisco, California. If additional information becomes
18 available, EPA will revise the Administrative Record to reflect
19 such material. To review the Administrative Record contact Mark
20 Klaiman at (415) 744-1374. A draft Index to the Administrative
21 Record file is enclosed with the Order.

22 VIII. OPPORTUNITY TO CONFER

23 A. With respect to the actions required above, the
24 Respondents may within three (3) calendar days after Effective
25 Date of this Order, request a conference with the U.S. EPA. Any
26 such conference shall be held within three (3) calendar days from
27 the date of request unless extended by mutual agreement of the
28 parties. At any conference held pursuant to the request, the

1 Respondents may appear in person, or by telephone, or be
2 represented by an attorney or other representative. If any
3 Respondent desires such a conference, the Respondent shall
4 contact Mark Klaiman, Assistant Regional Counsel, at (415) 744-
5 1374.

6 B. If such a conference is held, the Respondents may
7 present any evidence, arguments or comment regarding this Order,
8 its applicability, any factual determinations upon which the
9 Order is based, the appropriateness of any action which the
10 Respondents are ordered to take, or any other relevant and
11 material issue. Any such evidence, arguments or comments should
12 be reduced to writing and submitted to U.S. EPA within three (3)
13 calendar days following the conference. If no conference is
14 requested, any such evidence, arguments or comments must be
15 submitted in writing within three (3) calendar days following the
16 Effective Date of this Order.

17 C. The Respondents are hereby notified that U.S. EPA will
18 take any action which may be necessary in the determination of
19 U.S. EPA for the protection of public health and welfare and the
20 environment, and Respondents may be liable under Section 107(a)
21 of CERCLA, 42 U.S.C. Section 9607(a), for all past and future
22 costs of these government actions.

23 IX. ENDANGERMENT DURING IMPLEMENTATION

24 A. If any incident, or change in Site conditions, during
25 the actions conducted pursuant to this Order causes or threatens
26 to cause an additional release of hazardous substances from the
27 Site or an endangerment to the public health, welfare or the
28 environment, the Respondents shall immediately take all

1 appropriate action. Respondents shall take these actions in
2 accordance with all applicable provisions of this Order,
3 including the health and safety plan, and shall immediately
4 notify the OSC of the incident or Site conditions.

5 B. The Director, Hazardous Waste Management Division, EPA
6 Region IX, may determine that acts or circumstances (whether
7 related to or unrelated to this Order) may endanger human health,
8 welfare, or the environment, and as a result of this
9 determination, may order the Respondents to stop further
10 implementation of this Order until the endangerment is abated.

11 X. OTHER CLAIMS

12 Nothing contained herein shall be construed to prevent U.S.
13 EPA from seeking legal or equitable relief to enforce the terms
14 of this Order, or from taking other legal or equitable action as
15 it deems appropriate and necessary, or from requiring the
16 Respondents in the future to perform additional activities
17 pursuant to CERCLA, 42 U.S.C. Section 9601, et seq., or any other
18 applicable law.

19 XI. PENALTIES FOR NONCOMPLIANCE

20 The Respondents are advised pursuant to Section 106(b) of
21 CERCLA, 42 U.S.C. Section 9606(b), that willful violation or
22 subsequent failure or refusal to comply with this Order, or any
23 portion thereof, may subject each noncomplying Respondents to a
24 civil penalty of up to \$25,000 per day for each day in which such
25 violation occurs, or such failure to comply continues. Failure
26 to comply with this Order, or any portion thereof, without
27 sufficient cause may also subject the Respondents to liability
28 for punitive damages in an amount three times the amount of any

cost incurred by the government as a result of the failure of the Respondents to take proper action, pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. Section 9607(c)(3).

XII. SEVERABILITY

If any provision of this Order is deemed invalid or unenforceable, the balance of this Order shall remain in full force and effect

XIII. GOVERNMENT NOT LIABLE

The United States Government and its employees and other representatives shall not be liable for any injuries or damages to persons or property resulting from the acts or omissions of the Respondents, their employees, contractors, or other representatives caused by carrying out this Order. The United States Government is not a party to any contract with the Respondents.

THIS ORDER IS ISSUED on this 10th day of OCTOBER, 1995.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

By: Keith Takata

Keith Takata, Deputy Director
Hazardous Waste Management Division
United States Environmental Protection Agency
Region IX

Enclosure: Index to the Administrative Record
cc: California Department of Toxic Substances

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

AMERICAN CHROME
Superfund Removal Site
Oakland, California
ADMINISTRATIVE RECORD FILE
10/06/95

DATE yy/mm/dd	AUTHOR	ADDRESSEE	SUBJECT
95/09/28	William Lewis Environmental Protection Agency - Reg 9	Keith Takata Environmental Protection Agency - Reg 9	Memo: Documentation of on-scene initiation of removal action for site
95/10/04	Peter Lawrence Ecology & Environment	William Lewis Environmental Protection Agency - Reg 9	Contractor rpt